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In re Application of EIRICH et al	:	
U.S. Application No.: 10/088,888	:	
Int. Application No.: PCT/DE00/03117	:	DECISION
Int. Filing Date: 06 September 2000	:	
Priority Date: 23 September 1999	:	
Attorney Docket No.: WSP:205 US	:	
For: METHOD FOR CONDITIONING FOUNDRY	:	
MOULDING SAND AND A DEVICE	:	
THEREFOR	:	

This is in response to the papers filed 29 July 2002, which is being treated as a petition under 37 CFR 1.497(d).

### **BACKGROUND**

On 06 September 2000, applicant filed international application PCT/DE00/03117, which claimed priority of an earlier Germany application filed 23 September 1999. A copy of the international application was communicated to the USPTO from the International Bureau on 29 March 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 11 April 2001, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 25 March 2002 (23 March 2002 was a Saturday).

On 22 March 2002, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 30 May 2002, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that a properly executed oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 29 July 2002, applicant filed the present petition along with an executed declaration.

### DISCUSSION

37 CFR 1.497(d) (effective 07 November 2000) states,

If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by: (1) a statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part; (2) the processing fee set forth in § 1.17(i); and (3) if an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter).

With regard to item (1) above, applicant has provided the requisite statement.

With regard to item (2) above, the requisite processing fee will be charged to Deposit Account No. 04-1790 as authorized by applicant.

With regard to item (3) above, in situations where an assignee consents to a correction of inventorship, ownership of the application must be established. See MPEP 324. Under 37 CFR 3.73(b), ownership is established by documentary evidence of a chain of title from the original owner to the assignee. In the present case, the petition is accompanied by a copy of an assignment agreement, but the petition does not include a statement from the assignee which indicates that the assignee consents to the correction of inventorship.

### CONCLUSION

For the reasons above, the petition under 37 CFR 1.497(d) is DISMISSED without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.497(d)". No additional petition fee is required.

Please direct further correspondence with respect to this matter to the Commissioner for Patents, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the PCT Legal Office.

  
Bryan Tung  
PCT Legal Examiner  
PCT Legal Office